



## STATE OF WISCONSIN – JUDICIAL COUNCIL

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### AGENDA

**WISCONSIN JUDICIAL COUNCIL**  
SEPTEMBER 24, 2021 – 9:00 A.M.  
CONDUCTED ONLY BY ZOOM  
MADISON, WISCONSIN

**William Gleisner is inviting you to a scheduled Zoom meeting.**

**On 9/24/21 at 9 a.m., join the Council Meeting using the following URL: <sup>1</sup>**  
<https://us02web.zoom.us/j/88378021872?pwd=WHBQZEJTZWVh3NEd6enViVkN2SEpXUT09>.  
**When prompted, enter passcode: 999**

**Members of the public will be permitted to attend this meeting but must agree to refrain from disrupting the meeting in any. If anyone is unsure how to sign into the meeting, please email Bill Gleisner ([gleisnerwilliam@gmail.com](mailto:gleisnerwilliam@gmail.com)) or call him at 414-651-3182.**

- I. Roll Call and approval of the June 18, 2021 Minutes.
- II. **Report of Thomas Shriner, the Chair of the Evidence and Civil Procedure Committee, concerning the Committee's work on preparing a proposed revision to Chapter 813 of the Wisconsin**

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<sup>1</sup> The following is additional information concerning the September 24, 2021 Zoom meeting:

Meeting ID: 883 7802 1872

Passcode: 999

One tap mobile

+13017158592,,88378021872#,,,,\*999# US (Washington DC)

+13126266799,,88378021872#,,,,\*999# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 436 2866 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 883 7802 1872

Passcode: 999

Find your local number: <https://us02web.zoom.us/j/kdVzRSHEkn>

**Statutes. What follows is a brief summary of the work of the Committee to date.**

*The Evidence and Civil Procedure Committee consists of Chair Tom Shriner, John Orton, Judge Gasiorkiewicz, Margo Kirchner, Sarah Zylstra, William Gleisner, and ad hoc member Assistant Attorney General Brandon Flugaur. Under the leadership of Chair Shriner, the Evidence and Civil Procedure Committee has undertaken a lengthy study of current Chapter 813 of the Wisconsin Statutes (copy attached). The goal has been to develop a Wisconsin injunctive relief rule which is responsive to the need of Wisconsin's civil litigators and which is similar to FRCP 65 (copy attached). At the same time, the Committee has sought to retain other important relief covered by current Chapter 813.*

*One of the chief problems with current Chapter 813 is that it has become a "dumping ground" for any type of relief which arguably may be characterized as injunctive in nature. The attached current version of Chapter 813 deals with all sorts of injunctive relief, including a) restraining orders regarding domestic abuse, child abuse and individuals at risk; b) Global Positioning Tracking; c) Writs of ne Exeat; d) Receiverships, and a host of other matters which are largely unrelated to the type of civil injunctive relief governed by Federal Rule of Civil Procedure 65. It was the goal of the Committee to develop a separate section of the statutes devoted just to civil injunctive relief responsive to Wisconsin practice and procedure and consistent with the reach of FRCP 65, without doing damage to the other types of relief covered by present Chapter 813 of the Statutes.*

*Chairman Shriner and Attorney Orton have developed a proposed draft which is attached. While the work of the Committee continues, using the attached draft Chair Shriner and Attorney Orton will report to the Council concerning the Committee's work to date.*

- III. **New Legislative Action.** At our September meeting, we will also discuss legislative bills which may affect the rules of civil, criminal and appellate procedure. Attached is an email from Senator Wanggaard's office outlining the exiting bills.
- IV. **Restyling the current Wisconsin Rules of Evidence.** As Tom Shriner has previously reported, there is the possibility that Professor Dan Blinka (MU Professor of Evidence) may be willing to become a "reporter" of a Council effort to update our Wisconsin Rules of Evidence. In such a capacity, Professor Blinka would presumably function initially in the capacity of an ad hoc member of the Evidence and Civil Procedure Committee.

Professor Blinka is not necessarily advocating the adoption of new rules

of evidence. However, our Wisconsin Rules of Evidence were adopted from the Federal Rules back in 1974. Since then, the Federal Rules of Evidence have been “restyled,” and Professor Blinka is suggesting that we consider a similar restyle of our Rules of Evidence. This is an exciting prospect, but what in the world does it mean to “restyle” rules?

As the Judicial Council, we should understand the concept of restyled rules of evidence or civil procedure before we enter into any discussions with Professor Blinka about the wisdom of doing so for Wisconsin. Previously, I supplied the Council with the following articles: The first article is from the Justia Blog which gives a brief explanation and provides examples. The second article is from the UC Hastings College of Law Library and is a reprint of a law review article from the William and Mary Law Review: Clark, “The Restyled Federal Rules of Evidence,” 53 Wm. & Mary L. Rev. 1435 (2012).

At our September meeting, we will discuss the timing of a referral of the restyling project to the Evidence and Civil Procedure Committee.

- V. **Calendar of future meetings.** Following the September meeting, we will return to meetings on every third Friday of each month, with the exception of December, April and July through August. During the latter four months no Council meetings will be scheduled.

VI. Committee Reports.

(a) Evidence & Civil Procedure Committee.

(b) Criminal Procedure Committee.

(c) Appellate Procedure Committee.

VII. Adjournment.

**PUBLIC NOTICE**

All meetings of the Judicial Council and its committees are open to the public. The Council’s September 24, 2021 meeting will be only conducted by Zoom. Members of the public are welcome to join the meeting by using the URL which is set forth above, or by using the Zoom application and entering Meeting No. 883 7802 1872 and, when prompted, passcode 999. However, members of the public must supply their name before they will be granted admission. In addition, the mikes of the public participants will be muted. If any member of the public disrupts the meeting in any way, they will be removed from the meeting and will be barred from readmission. For more information, please contact the Chair of the Judicial Council, Mr. Gleisner, at 414-651-3182 or [gleisnerwilliam@gmail.com](mailto:gleisnerwilliam@gmail.com).